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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054402
Party	Defendant Vina Ventisquero Limitada
Correspondence Address	PAMELA S BURT WEINER & BURT PC 635 N US 23, PO BOX 186 HARRISVILLE, MI 48740 UNITED STATES
Submission	Answer
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Date	10/03/2011
Attachments	Answer to Cancellation 92054402 - 10-3-11.pdf (5 pages)(43562 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Dogfish Head Marketing, LLC)	
Petitioner)	
)	Cancellation No.: 92054402
v.)	
)	Registration No. 3137556
Viña Ventisquero Limitada)	
Registrant)	

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

REGISTRANT’S ANSWER TO PETITION FOR CANCELLATION

Viña Ventisquero Limitada (“Registrant”), for its answer to the Petition for Cancellation filed by Dogfish Head Marketing, LLC (“Petitioner”) against Registrant’s Registration No. 3137556, pleads and avers as follows:

1. Answering Paragraph 1 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.
2. Answering Paragraph 2 of the Petition for Cancellation Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

3. Answering Paragraph 3 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

4. Answering Paragraph 4 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands Petitioner provides specific proof thereof.

5. Answering Paragraph 5 of the Petition for Cancellation, Registrant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies all the allegations, leaving Petitioner to its strict proof at trial.

6. Answering Paragraph 6 of the Petition for Cancellation, Registrant partially admits that Registrant owns Registration No. 3137556 for the mark PANGEA in International Class 33 for “*alcoholic beverages, namely, wine and distilled spirits*” but denies the remaining allegation contained therein leaving Petitioner to its strict proof at trial.

7. Answering Paragraph 7 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands Petitioner provides specific proof thereof.

8. Answering Paragraph 8 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands Petitioner provides specific proof thereof.

9. Answering Paragraph 9 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands Petitioner provides specific proof thereof.

10. Answering Paragraph 10 of the Petition for Cancellation, Registrant denies each and every allegation contained therein and demands Petitioner provides specific proof thereof.

AFFIRMATIVE DEFENSES

1. Petitioner's Petition for Cancellation fails to state legally sufficient grounds for sustaining the cancellation.

2. There is no likelihood of confusion between Registrant's mark and Petitioner's marks because, among other things, the marks are different in appearance, meaning, and overall commercial impression.

3. There is no likelihood of confusion between Registrant's mark and Petitioner's marks because, among other things, the goods provided in connection with the marks are different, provided in different channels of trade and would not be encounter by the same consumer in the marketplace.

4. No damage or injury has resulted, will result, or is likely to result to Petitioner from the maintenance of registration of Registrant's marks due to, among other factors, the difference between the marks and the distinct and different nature of each party's goods provided with their marks.

5. Petitioner's cancellation is barred, insupportable or otherwise fatally flawed under the equitable doctrine of laches. While a registration may be challenged any

time within the first five years of registration, that is not meant to allow potential challengers to wait until the last moment to file a Petition for Cancellation. Registration is constructive knowledge to all concerned of the existence of this new mark and its registration. One with a registration that appears to be threatened by the registration of a new mark must act within a reasonable time. It is unfair to allow a registrant to expend vast sums of money and time building a base using the mark only to swoop in at the last minute and snatch the mark away, causing irreparable financial losses to another who was acting in good faith. Petitioner waited almost five years to take action against Registrant's registration.

In view of the foregoing, Registrant contends that this cancellation is groundless and baseless in fact; that Petitioner has not shown wherein it will be, or is likely to be, damaged by the continued registration of Registrant's mark; and Registrant prays that the Board dismiss this cancellation with prejudice and for such other relief as the Board may deem appropriate.

Viña Ventisquero Limitada
By and through they attorney



Dated: October 3, 2011

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Certificate of Service

I hereby certify that a copy of the foregoing REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION was served this date October 3, 2011 upon Petitioner's Attorney's address of record by First-Class mail, postage prepaid, as follows:

John Dabnew
MCDERMOTT WILL & EMERY LLP
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United States



Justin R. Young